



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,819	07/24/2001	John T. Micco	04899-046001	6291

7590

08/24/2005

Kevin J. Canning, Esq.
Lahive & Cockfield, LL.P
28 State Street
Boston, MA 02109

EXAMINER

VU, TUAN A

ART UNIT

PAPER NUMBER

2193

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/911,819	Applicant(s) MICCO ET AL.	
	Examiner Tuan A. Vu	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, ~~the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-56.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation page Note.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

WEI Y. ZHEN
PRIMARY EXAMINER

Wei Y. Zhen

Note from 11: The arguments presented herein in the After Final mostly fall under the same category of arguments that had been addressed in the final rejection. The main focus revolves around the IDL by Shannon and that of Research Systems not teaching a description file translating a function call in a 1st language into a function in a second language. The concept of IDL is to address every data structures in one language so that when the target language needs to be generated such IDL would enable to put together the constructs needed to implement that language. Both the references has taught just such definition language; and from it to say that when Diana IDL is not the same as C model IDL would be incorrect because they both teach such intermediate collection of data which is targeted to build target language in a different language than the first language. The basis of 103(a) rejection is allowed to be founded on analgous teachings, which is the case here. To say that IDL by Reseach Systems does not teach converting data related to a function call would also be as incorrect. The Research systems does provide class structures with all there is in converting therefrom into a target system code constructs. Inherent to this is the conversion of methods within a class so that their invocation can be effected when implemented the target class object owing to the mapping of corresponding constructs defined in the IDL declaration. It would be unthinkable that a IDL like that of Shannon working with C model and of Research Systems with class model would only emphasize on data structures definition only to leave out the flow of parameters declared in relation to the function or procedures calls of a target language. Hence the IDL taking care of the function call as raised by Applicant and its integral parts are disclosed in the references. This was well-known at the time the invention was made. A simple inquiry on any definition of IDL would reveal that not only type checking and atomic structures are to be declared therein, but also the definition of procedures would be defined as well because any target language will need correct function declaration and if a IDL leaves out such crucial function call definition, no target language would be viable. Therefore the arguments are not persuasive and the request for consideration for the reasons above will not suffice to put the claims in allowance conditions